

49. Canada Post currently faces competition for delivery of addressed publications.³⁹ The principal form of competition for the delivery of addressed subscriber copies of daily and weekly newspapers (those not eligible for subsidized postal rates) is delivery by the publishers themselves. In general, almost all such newspapers choose to deliver their own publications wherever volume densities warrant, with the residual volumes being mailed to subscribers via Canada Post's commercial Publications Mail rates. There is somewhat less competition for the delivery of addressed periodicals, where competition exists mainly in the dense urban areas. Competition for the delivery of addressed periodicals is limited because commercial publications rates are designed to attract the delivery of addressed periodicals not eligible for subsidized rates. It is also limited due to Canada Post's successful bid to the Department of Canadian Heritage for the delivery of publications eligible for funded rates. Canada Post's competitors cannot enter into the same arrangement with the Department of Canadian Heritage because all available program dollars have been committed to the arrangement signed with Canada Post.⁴⁰

50. The economic factors applicable to foreign and domestic periodicals are not the same which is why their respective rates are different. Those rates are a reflection of competitive situations, not the result of discriminatory practices as it is argued by the United States. Canada Post has no policy of giving a competitive advantage to one segment of its customers over another, and would have no interest in pursuing any such practice. Given appropriate competitive factors, it might very well be that certain foreign periodicals would enjoy better rates than non-subsidized Canadian magazines. This is exactly the type of scenario that Article III of the GATT 1994 is intended to preserve. If foreign magazines are in better competitive situations, they should be able to take advantage of it. If on the contrary, they are not in such a position, Article III should not be there to grant them advantages that market forces do not provide. In the commercial and competitive environment in which Canada Post operates, it is under no obligation by virtue of Article III:4 to subsidize U.S. publications by setting a better postal rate than what their specific market conditions require.

5. The funds paid by the Department of Canadian Heritage to Canada Post to ensure that Canadian periodical publishers can mail periodicals at reduced postal rates are allowable subsidies under Article III:8(b) of the GATT 1994

51. The United States argues that funds paid to Canada Post - which charges lower postal rates to eligible Canadian publications - by the Department of Canadian Heritage cannot be considered subsidies paid exclusively to Canadian publishers of periodicals, as provided in

³⁹ Examples of such competitors are Globe and Mail Distribution Services Ltd., AITours Ltd. (bundle distribution of magazines to business/professional offices), C.D. Woods Ltd., (Vancouver B.C.), Roltek Ltd., Insurance Courier Services Ltd. and an emerging co-operative delivery venture of Canadian trade publications.

⁴⁰ Paragraph 49 of this Submission addresses issues raised by the Panel in Question 15.